IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

C.W.P. No.965 of 2007.

Date of decision: 18-9-2007.

Shri Brij Mohan Thakur ....Petitioner

-Versus-

State of H.P. and others ….Respondents

Coram:

The Hon'ble Mr.Justice Deepak Gupta, Judge.

The Hon'ble Mr.Justice V.K.Ahuja, Judge.

Whether approved for reporting? No

For the Petitioner: Mr.Anuj Gupta, Advocate

For the respondents: Mr.M.S.Chandel, A.G. with Mr.A.Burathoki, Dy.A.G. for respondents No.1&3.
Mr.Neeraj Gupta, counsel for respondent No.2.

Deepak Gupta, J.

The petitioner by means of this writ petition has made the following two main prayers:

> "b). That the respondent No.2 may be ordered not to engage vehicles registered outside the State of H.P., for execution of the transport contract (Ann. P-1) awarded him by respondent No.1.
>
> c). That respondent No.1, may be ordered not to allow any vehicle registered outside the State of H.P. to transport its goods from its godowns to their destinations within District Shimla."

The brief facts leading to filing of the petition are that tenders were invited by respondent No.1 for transportation of foodgrains and other material to various depots etc. within the State of Himachal Pradesh. The tender was awarded in favour of respondent No.2. The complaint of the petitioner is that the respondent No.2 is using trucks registered outside the State of Himachal Pradesh which is not permissible in terms of Section 88(1) of the Motor Vehicles Act and Rule 90(7) of the Central Motor Vehicles Rules.

Section 88(1) of the Motor Vehicles Act, 1988 reads, thus:

"**88.Validation of permits for use outside region in which granted:-**

(1) Except as may be otherwise prescribed, a permit granted by the Regional Transport Authority of any one region shall not be valid in any other region, unless the permit has been countersigned by the Regional Transport Authority of that other region, and a permit granted in any one State shall not be valid in any other State unless countersigned by the State Transport Authority of that other State or by the Regional Transport Authority concerned:

Provided that a goods carriage permit, granted by the Regional Transport Authority of any one region, for any area in any other region or regions within the same State, shall be valid in that area without the countersignature of the Regional Transport Authority of the other region or of each of the other regions concerned:

Provided further that where both the starting point and the terminal point of a route are situate within the same State, but part of such route lies in any other State and the length of such part does not exceed sixteen kilometers, the permit shall be valid in the other State in respect of that part of the route which is in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State:

Provided also that---

(a) Where a motor vehicle covered by a permit granted in one State is to be used for the purposes of defence in any other

State, such vehicle shall display a certificate, in such form, and issued by such Authority, as the Central Government may, by notification in the Official Gazette, specify, to the effect that the vehicle shall be used for the period specified therein exclusively for the purposes of defence; and

(b) Any such permit shall be valid in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State."

Rule 90 (7) if the Central Motor Vehicles Rules, 1989 reads thus:

"**90.Additional conditions for national permit:**

The national permit issued under sub-section (12) of Section 88 shall be subject to the following additional conditions, namely:-

(1) to (6)……..

(7) The vehicle shall not pick up or set down goods between two points situated in the same State other than the home State."

A perusal of the aforesaid provisions clearly shows that a goods vehicle registered by the Regional Transport Authority of any one region/regions can be used within the State in which it is registered. It can only be used outside the State if it is counter-signed by the RTA of that State/region. This is normally done by issuing a national permit. A national permit also can be of two types. One is a Zonal National permit where the vehicle can be taken to limited number of States and one is All India permit where the goods vehicle can ply all over the Country. It is however absolutely clear that intra State transportation i.e. transportation of goods where the originating part and destination is within one State can only be done by goods vehicles registered in that State. There is no dispute with regard to this legal position.

The Respondent No.2 in his reply affidavit has clearly admitted that he at times, in cases of emergency, has used vehicles registered outside the State of H.P.

for carrying goods within the State of H.P. He has also submitted that in fact sometimes his vehicles have been challened by respondent No.3 in this regard. He has now in his reply undertaken that henceforth he will not use any vehicle registered outside the State of H.P. for carrying of goods within the State of H.P.

In view of the clear-cut undertaking of respondent No.2 that he shall not use vehicles registered outside the State of H.P.for execution of the contract in question which involves the carriage of goods totally within the State of H.P. the writ petition is disposed of with the following directions:

(a) that respondent No.1 shall ensure that the goods to be transported in terms of the tender in question are loaded in trucks registered within the State of H.P.

(b) In case of any violation, respondent No.3 shall take appropriate action in accordance with law.

The writ petition is disposed of in terms of the above directions.

In view of the disposal of the writ petition, the CMP No.1629 of 2007 is also disposed of.

(Deepak Gupta),
Judge

Sept. 18, 2007 **(V.K. Ahuja)**
PV **Judge.**